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IN REPLY REFER TO:

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Mountain-Prairie Region

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JAN 02 2013

Ms. Melissa Horbein, Esq.
Montana Federal Reserved Water Rights Compact Commission
2705 Spurgin Road, Bldg C
Missoula, Montana 59804-3111

RE: Federal Reserved Water Right negotiations for Charles M. Russell National Wildlife Refuge

Dear Melissa:

I am writing to provide you and the Compact Commission with a more succinct response to the requests outlined in your December 20, 2012 email.

1. The Service accepts the language: "the Fish and Wildlife Service has an interest in maintaining water flow and wildlife habitat throughout the Refuge." , in exchange for dropping the unquantified right, provided that language is added that grants us the right to object to development which would harm habitat maintained by those streams.
2. The Service does not agree to curtail the restricted reaches downstream towards the refuge to the first boundary with contiguous public land. We believe that a greater percentage of the watershed must be protected in order to protect the flows in those streams than is represented by such a curtailment. We do agree to curtail the extent of the protected reaches on Hell Creek, Snow Creek, Seven Blackfoot Creek, and Crooked Creek, as shown on a map provided by the Deputy Project Leader to the Commission's technical staff.
3. We agree to a four month period of use on the Musselshell.


In response to the public comments:

1. Valentine and Fourchette Creeks are located on the U.L Bend National Wildlife Refuge on lands that were withdrawn from the public domain by P.L.O. 4588 on March 25, 1969.

2. The quantified amounts of streamflow for the streams included in the analysis performed by Sierra Stoneberg Holt using formulas in the USGS report, SIR 2009-5009, are available in median flow years. This is the median flow left after 77 years of upstream development. The quantified rights for the 69 streams identified in the counter-proposal provide the refuge with some minimal flow to maintain riparian forage and wildlife habitat. The four-month period of use ensures that with the natural variability in the timing runoff, the refuge will get that runoff that occurs during the growing season, and it will include some component of a peak flow.

I hope these responses more clearly meet the needs and wants of the Compact Commission. Please let me know if I can provide any additional information.

Sincerely,



Megan A. Estep
Chief, Division of Water Resources

cc: John Chaffin
Office of the Solicitor
316 North 26th Street
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Mr. Bill Schultz, Administrator
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